

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION**

James E. Devore,	)	
	)	
Plaintiff,	)	Civil Action No.: 1:16-cv-03659-JMC
	)	
v.	)	
	)	
Commissioner of Social Security	)	<b>ORDER</b>
Administration,	)	
	)	
	)	
Defendant.	)	
	)	

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This matter is before the court on Plaintiff James E. Devore’s (“Plaintiff”) Petition for Attorney’s Fees, pursuant to 42 U.S.C. § 406(b), filed on October 22, 2018. (ECF No. 24.) Defendant Commissioner of Social Security Administration (“the Commissioner”) responded to Plaintiff’s Petition on November 2, 2018. (ECF No. 25.) The parties agreed that Plaintiff should be awarded eleven thousand three hundred twenty dollars and fifty cents (\$11,320.50) in attorney’s fees, which were withheld from Plaintiff’s past-due benefits. (ECF No. 24 at 1; ECF No. 25 at 1.) After reviewing Plaintiff’s Petition (ECF No. 24) and Defendant’s Response (ECF No. 25), the court finds that the stipulated request for fees is reasonable and that Plaintiff is entitled to an award of attorney’s fees under 42 U.S.C. § 406(b).

In accordance with *Gisbrecht v. Barnhart*, when fees are awarded under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412, and 42 U.S.C. § 406(b), a claimant’s attorney must refund the smaller amount to the claimant. 535 U.S. 789, 796 (2002). Plaintiff received four thousand seventy-seven dollars and seventy-seven cents (\$4,077.77) in fees under the EAJA on October 10, 2017. (ECF No. 23.) Therefore, as Plaintiff’s counsel has agreed to do, the court directs

Plaintiff's counsel to remit four thousand seventy-seven dollars and seventy-seven cents (\$4,077.77) to Plaintiff. (ECF No. 24 at 1-2.)

After a thorough review of Plaintiff's Petition (ECF No. 24) and Defendant's Response (ECF No. 25), the court **GRANTS** Plaintiff's Petition for Attorney's Fees (ECF No. 24) and awards \$11,320.50 in attorney's fees.

**IT IS SO ORDERED.**



United States District Judge

November 6, 2018  
Columbia, South Carolina